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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,258	11/08/2001	Richard B. Mignogna	80,253	5017

26384 7590 04/14/2003

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EXAMINER

FAY YAZ, NASHMIYA SAQIB

ART UNIT	PAPER NUMBER
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2856

3

DATE MAILED: 04/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,258

Applicant(s)

MIGNOGNA ET AL.

Examiner

Nashmiya S. Fayyaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP-137504 (Toda et al.).

As to claims 1-6, Toda et al disclose an ultrasonic system/method for measuring thickness of a film 14 on plate 15 by applying an ultrasonic probe 13 to the film and plate and introducing a transmission pulse with low and high frequency components into bodies (15, 14) and reception of echos from the interfaces which is then subjected to Fourier Transform and peaks are obtained and used to determine the thickness of the coating film 14, see Abstract and Fig. 3a. However, it is not recited in the Toda et al that signals include a "back-scattered signal" and a "trailing signal" and where they are discriminated based on a time delay. However, it is indicated that a "surface echo" or "underside echo" is subjected to the FFT. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to determine that the surface or underside echo as the signal of interest based upon the configuration of the fluid coating substrate interface and thereby determine which signal to analyze as the "trailing signal". As to claim 2 Toda et al obtain 2 peaks and use one of the peaks to normalize the other of the peaks. As to claim 3, usage of the velocity along with the resonant frequency is well-known for determining

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the thickness and therefore would have been obvious to one of ordinary skill in the art at the time of the invention as old and well-known.


3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

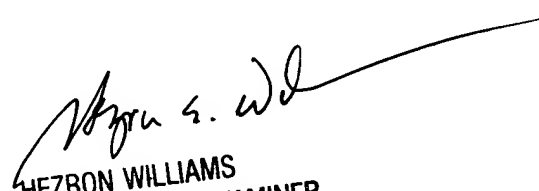
Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, in step e, it is unclear what "the frequency" is referring to. It should be indicated that it is of the set of frequencies of the returning trailing signal. In claim 2, on line 3, "the front surface" and on line 6 "the main transmitting frequency" lack antecedent basis. On line 4, "it" is unclear. In claim 3, is the "resonant frequency" different from that of claim 1, step e? On line 3, "the resonant frequency" lacks clear antecedent basis. In claim 4, there is no reference to FFT and therefore it is unclear how an amplitude of each "frequency component" is determined.

4. Any inquiry concerning this communication should be directed to N. Fayyaz at telephone number 305-4891.


Fayyaz/ek

03/27/03


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